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**RECEIVED**  
**SEP 07 2005**  
**UTAH STATE**  
**INSURANCE DEPT**

**BEFORE THE INSURANCE COMMISSIONER  
OF THE STATE OF UTAH**

**COMPLAINANT:**

UTAH INSURANCE DEPARTMENT

**STIPULATION  
&  
ORDER**

**RESPONDENT:**

DEE R. SMITH  
2855 E. Cottonwood Parkway, Suite 240  
Salt Lake City, UT 84121  
License No. 49553

Docket No. 2005-106 LC

Enf. Case No. 1679

**STIPULATION**

1. Respondent, Dee R. Smith, is a licensed insurance agent in the State of Utah, holding License No. 49553.

2. Respondent stipulates with the Complainant, Utah Insurance Department, as follows:

- a. If a hearing were held, witnesses called by the Complainant could offer and introduce evidence that would support the Findings of Fact herein;
- b. Respondent admits the Findings of Fact and Conclusions made therefrom;
- c. Respondent stipulates to the summary entry of the Order herein which shall be in lieu of other administrative proceedings by Complainant in this matter; and

d. Respondent and Complainant have negotiated the terms of the Order entered herein and Respondent agrees to its entry and further agrees to be bound by all its terms.

3. Respondent is aware of his right to a hearing at which he may be represented by counsel, present evidence and cross-examine witnesses. Respondent has irrevocably waived his right to such hearing and to any appeal related thereto.


4. Respondent admits the jurisdiction of the State of Utah Insurance Commissioner as to all matters herein.

5. Respondent is acting herein free from any duress or coercion of any kind or nature, having been advised fully as to his rights set forth herein.

6. Respondent acknowledges that the issuance of this Order by the Commissioner is solely for the purpose of disposition of the matter entitled herein.

DATED this 6<sup>th</sup> day of September, 2005.

  
DEE R. SMITH

  
UTAH INSURANCE DEPARTMENT  
M. Gale Lemmon, Assistant Attorney General

Based upon the foregoing Stipulation and information in the file, the Presiding Officer makes the following Findings of Fact:

### **FINDINGS OF FACT**

1. On or about May 17, 2005, Respondent submitted an application via SIRCON for renewal of his insurance agent's license.
2. Respondent answered "Yes" to the question "...have you completed the required continuing education hours?" and attested in the application certifying that all information in the renewal application was complete, true and correct.
3. The department undertook a routine audit of Respondent's continuing education on June 13, 2005, which revealed that Respondent had completed none of the required 18 continuing education hours prior to submitting his application for renewal.
4. In renewing his application in 2003, Respondent also falsely certified that he had completed all the required continuing education prior to filing his renewal application, and an audit at that time also revealed that he had not completed all the required hours and as a result, Respondent was assessed an administrative forfeiture in the amount of \$250.00, Docket No. 2003-113-LC.

Based upon the foregoing Stipulation and Findings of Fact, the Presiding Officer enters the following Conclusions of Law:

### **CONCLUSIONS OF LAW**

1. In failing to satisfy the continuing education requirements prior to submitting his

renewal application Respondent violated Utah Code Annotated § 31A-23a-105(1)(b).

2. In falsely certifying that he had completed the required continuing education requirements when such was not the case, Respondent violated Utah Code Annotated § 31A-23a-202(6).

Based upon the foregoing Stipulation, Findings of Fact and Conclusions of Law, the Presiding Officer herewith enters the following Order:

### **ORDER**

IT IS HEREBY ORDERED:

1. Respondent is assessed an administrative forfeiture in the amount of \$750.00 to be paid within 30 days of the date of this Order.

2. Respondent's insurance agent's license is placed on probation for a period of 24 months beginning with the date of this Order. The terms of probation are:

- a. Respondent shall pay the forfeiture assessed herein in a timely manner;
- b. Respondent, shall complete all required continuing education prior to submitting his next application for renewal of his license; and
- c. Respondent shall have no further violations of the Utah Insurance Code or Rules or of any order of the commissioner.

### **NOTIFICATION**

Respondent is hereby notified that failure to abide by the terms of this Order may subject him to further penalties, including additional forfeitures of up to \$2,500.00 per violation and the suspension or revocation of his license, and the filing of an action to enforce this Order in the

District Court, which may impose penalties of up to \$10,000.00 per day for continued violation.

You are further notified that other jurisdictions in which you may be licensed may require that you report this action to them.

DATED this 8<sup>th</sup> day of September, 2005.

D. KENT MICHIE  
INSURANCE COMMISSIONER

A handwritten signature in black ink, reading "Mark E. Kleinfeld", is written over a horizontal line.

MARK E. KLEINFELD, Esq  
Administrative Law Judge  
Utah Insurance Department  
State Office Building, Room 3110  
Salt Lake City, Utah 84114  
Telephone (801) 538-3800

**Invoice****Due Date** 10-09-2005**Amount Due**

\$750.00

**Invoice ID** 257950**Payor ID** 43625**Total Amount Remitted** \$

Make Checks Payable To: 1679

**Utah Insurance Department  
3110 State Office Building  
Salt Lake City, UT 84114-6901****DEE R SMITH  
2855 EAST COTTONWOOD PARKWAY  
#240  
SALT LAKE CITY UT 84121****Invoice ID** 257950**Payor ID** 43625**Invoice Print Date** 09-09-2005**Items:**

09-09-2005 Monetary Penalty Individual

750.00

**Amount Due..... \$750.00**

CERTIFICATE OF MAILING

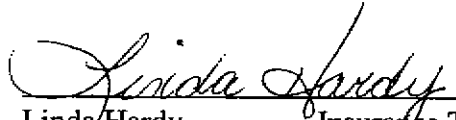
I do hereby certify that on this date I mailed, by certified mail, postage prepaid, a true and correct copy of the attached:

**STIPULATION  
&  
ORDER**

To the following:

**Dee R. Smith  
2855 E. Cottonwood Parkway  
Suite 240  
Salt Lake City, UT 84121**

DATED this 9<sup>th</sup> day of September, 2005

  
Linda Hardy Insurance Technician  
Utah Department of Insurance  
State Office Building, Room 3110  
Salt Lake City, UT 84114-6901  
(801) 538-3813